IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION Nos.11826, 11827, 11850, 11884 and 11902 of 2004

WRIT PETITION NO : 11826 of 2004

Between:

1 The Chief General Manager, Bharat Sanchar Nigam Limited, Door Sanchar Bhavan, Nampally Station Road, Hyderabad.
2 The General Manager (Development), Bharat Sanchar Nigam Limited, 3rd Floor, Triveni Complex, Abids, Hyderabad.
3 The Principal General Manager, Hyderabad Telecom District, Suryalok Complex, Abids, Hyderabad.

..... PETITIONERS

AND

1 T. Ramaiah S/o Chandraiah, Casual Mazdoor,
Office of DGM, TI, Abids, Hyderabad R/o Hyderabad.
2 A. Neelam Reddy S/o Bicha Reddy, Casual Mazdoor,
Office of DGM, TI, Abids, Hyderabad R/o Hyderabad.
3 K. Venatesh S/o Pochaiah, Casual Mazdoor,
Office of DGM, TI, Abids, Hyderabad R/o Hyderabad.
4 V. Venkaiah Goud S/o Anjaneyulu Goud, Casual Mazdoor,
Office of DGM, TI, Abids, Hyderabad R/o Hyderabad.
5 K. Srikanth S/o Venkatesham, Casual Mazdoor,
Office of DGM, TI, Abids, Hyderabad R/o Hyderabad.
6 N. Shiva Prasad, s/o Krishna Murthy, Casual Mazdoor,
Office of DGM, TI, Abids, Hyderabad R/o Hyderabad.
7 G. Thirupal S/o Chinna Balanna, Casual Mazdoor,
Office of GM, Telecom, Kurnool R/o Kurnool.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction, more particularly in the nature of Writ of Certiorari to call for the records in CP No. 31/2004 in OA No. 1107/2003 on the file of the Central Administrative Tribunal Hyderabad Bench Hyderabad and Quash the same and declare the orders in C.P. No. 31/2004 in OA No. 1107/2003 dt 8-4-2004 of the Central Administrative Tribunal, Hyderabad bench Hyderabad as contrary to law, illegal and without jurisdiction and set a side the same.

Standing Counsel for the Petitioners: MR.B.NARASIMHA SARMA

Counsel for the Respondents: MR.J.SUDHEER.

WRIT PETITION NO : 11827 of 2004

Between:

1 Union of India, represented by its Secretary, Ministry of Telecommunications, New Delhi.
2 Bharat Sanchar Nigam Limited, represented by its Chairman and Managing Director, New Delhi.
3 The Chief General Manager, Bharat Sanchar Nigam Limited, Nampally Station Road, Hyderabad - 500 001.
4 Principal General Manager, Hyderabad Telecom District, Bharat Sanchar Nigam Limited, Suryalok Complex, Abids, Hyderabad.
5 Sub-Divisional Engineer (SW Installation) Telecom, Bharat Sanchar Nigam Limited, Room No. 211, 1st Floor, Triveni Complex, Abids, Hyderabad - 500 001.

..... PETITIONERS

AND

P. Vikramarkudu, S/o. Sri Venkateshwar Rao, Casual Mazdor, Office of DGM, SWI, Triveni Complex, Abids, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction, more particularly in the nature of WRIT OF CERTIORARI to call for the records in C.P.No. 28/2004 in OA No. 881/2003 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the same and declare the orders in C.P.No. 28/2004 in OA No. 881/2003 dt. 8-4-2004 of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad as contrary to law, illegal and without jurisdiction and set aside the same.

Standing Counsel for the Petitioners: MR.B.NARASIMHA SARMA

Counsel for the Respondent: Mr. J.SUDHEER

WRIT PETITION NO : 11850 of 2004

Between:

1 The Chief General Manager, Bharat Sanchar Nigam Limited,
Door Sanchar Bhawan, Nampally Station Road, Hyderabad.
2 The General Manager (Development), Bharat Sanchar Nigam Limited,
3rd Floor, Triveni Complex, Abids, Hyderabad.
3 The Principal General Manager, Hyderabad Telecom District,
Suryalok Complex, Abids, Hyderabad.

..... PETITIONERS

AND

1 P. Hari Prasad, S/o. P. Krishna, Casual Mazdoor, Office of DGM (TI), Triveni Complex, Abids, Hyderabad, R/o. Hyderabad.
2 L. Jayant, Late S/o. Pandu Ranga Rao, Casual Mazdoor, Office of DGM (TI), Triveni Complex, Abids, Hyderabad, R/o. Hyderabad.
3 L. Anand Kumar, S/o. Siddaiah, Casual Mazdoor, Office of DGM (TI), Triveni Complex, Abids, Hyderabad, R/o. Hyderabad.
4 L. Muralidhar, S/o. Siddaiah, Casual Mazdoor, Office of DGM (TI), Triveni Complex, Abids, Hyderabad, R/o. Hyderabad.
5 Ch. Vijay Kumar, S/o. Late Narasimha Murthy, Casual Mazdoor, Office of DGM (TI), Triveni Complex, Abids, Hyderabad, R/o. Hyderabad.
6 R. Bharathi, W/o. Late Ramesh, Casual Mazdoor, Office of DGM (TI), Triveni Complex, Abids, Hyderabad, R/o. Hyderabad.
7 K. Malak Pasha, S/o. Jangir, Casual Mazdoor, Office of DGM (TI), Triveni Complex, Abids, Hyderabad, R/o. Hyderabad.
8 J. Chandra Shekar, S/o. Narayana, Casual Mazdoor, Office DGM (TI), Triveni Complex, Abids, Hyderabad, R/o. Hyderabad.
9 K. Gowri Manohar Reddy, S/o. K. Venkat Reddy, Casual Mazdoor, Office of DGM (TI), Triveni Complex, Abids, Hyderabad, R/o. Hyderabad.
10 Ch. Anjaiah, S/o. Ch. Rajaiah, Casual Mazdoor, R/o. Balajinagar, Shamerpet Mandal, R.R. District, Secunderabad.

RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction, more particularly in the nature of WRIT OF CERTIORARI to call for the records in C.P.No. 30/2004 in O.A.No. 1026/2003 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad and declare the orders in C.P.No. 30/2004 in O.A.No. 1026/2003 dt. 8-4-2004 of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad as contrary to law, illegal and without jurisdiction and set aside the same.

Standing Counsel for the Petitioners: MR.B.NARASIMHA SARMA

Counsel for the Respondents: MR.J.SUDHEER

WRIT PETITION NO : 11884 of 2004

Between:

1 The Chief General Manager, Bharat Sanchar Nigam Limited,
Door Sanchar Bhavan, Nampally Station Road, Hyderabad.
2 The General Manager (Development), Bharat Sanchar Nigam Limited,
3rd Floor, Triveni Complex, Abids, Hyderabad
3 The Principal General Manager, Hyderabad Telecom District,
Suryalok Complex, Abids, Hyderabad

..... PETITIONERS

AND

1 B.Bala Guruvaiah, S/o Late Thirumalaiah, Casual Mazdoor, Office of
DGM(I), Triveni Complex, Abids, Hyderabad.
2 M.Srinivasa Rao, S/o Laxminarasimha Rao Late, Casual Mazdoor,
Office of DE, SWI, Triveni Complex, Abids, Hyderabad.
3 S.Venkataramana, S/o Late Arjanna, Casual Mazdoor, Office of
DGM (I) Triveni Complex, Hyderabad.
4 S.Sikumar, S/o Mallaiah, Casual Mazdoor, Office of
DGM, (I) Triveni Complex, Abids, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction, more particularly in the nature of Writ of Certiorari to call for the records in C.P.No.43/2004 in OA No.1213/2003 on the file of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad and quash the same and declare the orders in C.P.No.43/2004 in OA No.1213/2003 dated 8-4-2004 of the Central Administrative Tribunal, Hyderabad Bench, Hyderabad as contrary to law, illegal and without jurisdiction and set aside the same.

Standing Counsel for the Petitioners: MR.B.NARASIMHA SARMA

Counsel for the Respondents: MR.J.SUDHEER.

WRIT PETITION NO : 11902 of 2004

Between:

1 The Chief General Manager, Bharat Sanchar Nigam Limited, Door Sanchar Bhavan Nampally Station Road, Hyderabad.
2 The General Manager (Development), Bharat Sanchar Nigam Limited, 3rd Floor, Triveni Complex, Abids, Hyderabad
3 The Principal GGeneral Manager, Hyderabad Telecom District,
Suryalok Complex, Abids, Hyderabad

..... PETITIONERS

AND

1 G. Sanyasi Rao S/o Alakanarayana Murthy, Casual Mazdoor, Office of DGM, SWG, Installations, BSNL, Abids, Hyderabad R/o Malakajgiri, R/o Hyderabad.
2 V. Chandra Sekhar S/o Ramaswamy, Casual Mazdoor, Office of DE, SWG, Installations, BSNL, Abids, Hyderabad R/o Hyderabad.
3 P.S. N. Raju S/o Venkata Rama Raju, Casual Mazdoor, Office of DGM, SWG, Installations, BSNL, Abids, Hyderabad R/o Hyderabad.
4 D.V.V.K. Saibaba S/o D.A. N. Sarma, Casual Mazdoor, Office of DGM, SWG, Installations, BSNL, Abids, Hyderabad R/o Hyderabad.
5 S. Ramaiah S/o Narasimhulu, Casual Mazdoor, Office of DGM, SWG, Installations, BSNL, Abids, Hyderabad R/o Hyderabad.
6 P. Swamy S/o Mallaiah, Casual Mazdoor, Office of DGM, SWG, I Installations, BSNL, Abids, Hyderabad R/o Hyderabad
7 K. Hanumantha Rao S/o K.K. Nasarimma, Casual Labour, Office of DGM, SWG, Installations, BSNL, Abids, Hyderabad R/o Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order or direction, more particularly in the nature of Writ of Certiorari to call for the records in C.P. No. 29/2004 in OA No. 1108/2003 on the file of the Central Administrative Tribunal Hyderabad Bench, Hyderabad and quash the same and declare the orders in C.P. No. 29/2004 in O.A. No. 1108/2003 dt 8-4-2004 of the Central Administrative Tribunal, Hyderabad Bench Hyderabad as contrary to law illegal and without jurisdiction and set a side the same.

Standing Counsel for the Petitioners: MR.B.NARASIMHA SARMA

Counsel for the Respondents: MR.J.SUDHEER.

The Court made the following:

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ORAL ORDER: (per GB.J.)

All these Writ Petitions can be disposed of by a common order as they are filed by the Central Government assailing the order passed by the Central Administrative Tribunal (for brevity Tribunal) in C.P.No.31 of 2004 in O.A.No.1107 of 2003, C.P.No.28 of 2004 in O.A.No.881 of 2003, C.P.No.30 of 2004 in O.A.No.1026 of 2003, C.P.No.43 of 2004 in O.A.No.1213 of 2003 and CP.No.29 of 2004 in O.A.No.1108 of 2003, dated 8.4.2004.

2. The matters relate to regularization of services/grant of temporary status of the Casual Labour. Consequent on the orders passed by the petitioners keeping

in view the orders passed by the Assistant Director General (Pers.IV) of BSNL, dated 10.12.2002, the Tribunal disposed of the above O.As., directing the authorities to dispose of the applications of the applicants by passing appropriate orders. The following is the order passed by the Tribunal:

> "The learned counsel for the applicants have produced before us the copy of the order dated 1.4.2003, 29.4.2003 and 30.5.2003. It is seen that the applicants are included in the list dated 1.4.2003 and 29.4.2003 along with others. It is also noticed from the order dated 1.4.2003 and 29.4.2003 that RM posts have been created from 1.10.2000 to the SSAs to the extent of casual labourers to be regularized therein. In view of the above circumstances we do not find any reason as to why the respondents are not implementing the orders.
>
> We, therefore, dispose of the application by directing the respondents to pass appropriate order by implementing the orders mentioned above in relation to applicants, within a period of one month from the date of communication of this order".

Since the said order was not fully implemented, Contempt Cases came to be filed and the Tribunal by its order directed the authorities to follow the orders and issue posting orders immediately. Aggrieved by the said order, the present Writ Petitions have been filed by the Central Government.

3. The learned Standing Counsel appearing for BSNL submits that the very entertainment of O.As. is not maintainable in view of the decision of the Full Bench of the Tribunal in B.N.SHARMA ETC.ETC. vs. UNION OF INDIA AND OTHERS (O.A.Nos.401 to 408 of 2002, dated 24.3.2004 Full Bench Jaipur), as the BSNL was not notified so as to exercise the jurisdiction of the Central Administrative Tribunal. Secondly also he submits that out of the applicants who approached the Tribunal, 14 were already issued with regularization order and conferment of temporary status and balance 10 persons, the matter is under examination and the action will be taken as soon as the material furnished to the Department. He would also submit that the Department is verifying the actual man-days put in by the respondents so as to issue appropriate orders.

4. On the other hand Mr.J.Sudheer, learned counsel for the respondents, submits that the question of verification of 240 working days would not arise as the same had become final long ago when the matter had the seal of approval

by the New Delhi Office. He also takes us through various orders passed by the authorities, which clinchingly establish that all the persons who filed O.A.No.1026 of 2003 and batch fulfilled the requirement for conferment of temporary status and regularization.

5. As far as the contention relating to jurisdiction aspect is concerned, though the Full Bench of the Tribunal has held that the Tribunal had no jurisdiction in respect of the service conditions of the employees of BSNL, but in view of the peculiar facts and circumstances of the case, we are not inclined to go into the jurisdictional aspect, and as to what is required to be done is the implementation of the orders passed by the authorities themselves. Under those circumstances, it will be a futile exercise again to direct the employees to approach this Court under Article 226 of the Constitution of India. Under these circumstances we do not find any merit in the Writ Petitions.

6. In the result, all these Writ Petitions are dismissed. However, the petitioners are directed to comply with the orders of the Tribunal within a period of six (06) weeks from the date of receipt of a copy of this order. No costs.

(G.BIKSHAPATHY, J.)

1st March, 2005.

(P.S.NARAYANA, J.)

SSR

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Chief General Manager, Bharat Sanchar Nigam Limited, Door Sanchar Bhavan, Nampally Station Road, Hyderabad.
2 The General Manager (Development), Bharat Sanchar Nigam Limited, 3rd Floor, Triveni Complex, Abids, Hyderabad.
3 The Principal General Manager, Hyderabad Telecom District, BSNL/. Suryalok Complex, Abids, Hyderabad.

4 Union of India, represented by its Secretary, Ministry of Telecommunications, New Delhi.
5 Bharat Sanchar Nigam Limited, represented by its Chairman and Managing Director, New Delhi.
6 Sub-Divisional Engineer (SW Installation) Telecom, Bharat Sanchar Nigam Limited, Room No. 211, 1st Floor, Triveni Complex, Abids, Hyderabad - 500 001.

7 The Registrar, Central Administrative Tribunal, Hyderabad Bench.

8 2 CD copies

9 1 CC to MR.SUDHEER

*Form-NIC-OGS/WP{**TRT**}*